

Subject: Fwd: Raffle Car in Front of Scott's

Date: Saturday, April 25, 2015 at 9:52:00 AM Pacific Daylight Time

From: Jennifer Koidal

To: Julie Braun, Klein, Adrienne@BCDC

Julie/Adrienne:

Please see below what we have on record documenting Jaguar placement in front of Scott's.

We will keep looking through past incident reports for data on final date of removal 2014 and previous year activity.

Have a good weekend ladies.

Jen

This message was sent from an iPhone device. Please excuse any typos or incorrect word corrections in this communication.

Jennifer Koidal, RPA
General Manager – Jack London Square
Corporate Occupier & Investment Services

T +1 (510) 645 9292 ext 223
F +1 (510) 645 9363
jenni@jacklondonsquare.com

Cushman & Wakefield of California, Inc. – License #00616335
70 Washington, Suite 207 Oakland, CA 94607

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Begin forwarded message:

From: Don Harms <don@jacklondonsquare.com>
Date: April 24, 2015 at 9:39:14 PM PDT
To: Jennifer Koidal <jenni@jacklondonsquare.com>
Cc: Alex Dinday <alex@jacklondonsquare.com>
Subject: Raffle Car in Front of Scott's

Good evening Jenni,

The Jaguar was first seen parked in front of Scott's on 06/27/14 when it arrived on a transport truck. (See below).

INCIDENTS: On 06/27/14 at 1025 hours the UPS Director of Security contacted the driver of a vehicle transport truck at the Broadway turnaround who was delivering a vehicle to be parked in front of Scott's. C&W was contacted who advised this location has been used in the past to park a vehicle for a contest being held at Scott's.

On 10/24/14 I saw that the Jaguar was being moved out of the front of Scott's. Scott's was hosting a fundraising event for the Oakland Police Department and a replica police

car was moved in place of the Jaguar during the charity event. I spoke to the driver who was not a police officer, but said Scott's gave him permission to park in front of the restaurant. Later that evening after the event ended the Jaguar was returned to the front of Scott's. (See attached photo of replica patrol car).

BCDC: Scott's hosted one event in the Public Pavilion that will be recorded in the BCDC log. On 10/24/14 the Jaguar parked in front of Scott's for a raffle was moved for a few hours in its place they staged a look alike lowered police car.

I am still looking for the entry in the BCDC log and or the VAP log that indicates the exact date the Jaguar was moved from in front of Scott's.

Don Harms

Director of Security | Jack London Square
66 Franklin Street | Oakland, CA 94607
510.209.7177 - cell | 510.444.2421- Security Dispatch
don@jacklondonsquare.com



Subject: RE: A few scott's questions

Date: Friday, April 24, 2015 at 2:05:05 PM Pacific Daylight Time

From: Julie Braun

To: Klein, Adrienne@BCDC, Jennifer Koidal

Adrienne,

My responses are noted below.

Do you have a list of dates over the past decade when scott's has installed a car in the Broadway street plaza?

Unfortunately we do not have a list of dates when the car was parked in the Broadway plaza, however it usually coincided with Scott's summer promotion (eat at Scott's and enter their Jaguar drawing). The car is parked in front of the restaurant for a month or two each year. In a 2011 email exchange between myself, Steve Hanson and Steve Fagalde, Fagalde admitted that Scott's had been parking the Jaguar in JLS as part of their marketing program for over 10 years.

Do you know when the storage area and stage was constructed?

The storage shed and stage were constructed in mid-July 2011. Scott's kept the Pavilion curtains down to hide their construction and when it was brought to our attention I contacted Steve Fagalde who claimed they were performing ongoing maintenance to their building and the storage room was mere a replacement of a preexisting storage shed.

Do you know when the roof extension connecting the restaurant building and the pavilion was constructed?

I may need clarification on this question. The breezeway between Scott's restaurant and the Pavilion has been partially covered by a roof extension since at least 2003 based on an overhead image that I have. This covered area is closest to the California Canoe & Kayak building. When Scott's constructed the storage room/stage, this structure not only extended the roof line to meet the Pavilion, but also sits on the breezeway footprint.

The pavilion was authorized in 1997. Following that date, do you know if Scott's ever installed the public shore tables, chairs and signs and if so, when they stopped doing so and if they did stop doing so was it intermittently or for an extended period. I think it's the latter but I don't know if I have evidence

Unfortunately I don't recall when the one or two tables and accompanying chairs that were placed along the boardwalk, as well as a sign, were removed however I believed they stopped for an extended period of time, not intermittently.

I'm sorry I can't provide more concrete dates for some of your questions, but let me know if you have any questions. As to your second set of questions, I'm hoping Jenni can answer those.

Have a good weekend!

From: Klein, Adrienne@BCDC [mailto:adrienne.klein@bccdc.ca.gov]

Sent: Friday, April 24, 2015 9:51 AM

To: Jennifer Koidal; Julie Braun

Subject: Re: A few scott's questions

Thanks again to you both.

The biggest and most tedious question of them all is pavilion use. I am holding off asking for an overall summary of the past decade or so but I may need to do that and also discuss:

1. why their data and your data, where I have two sets, doesn't match; and
 2. why my accounting of your records doesn't seem to match your accounting of your records.
- A fun place saver, shall we say...

Happy Friday!

From: Jennifer Koidal <jenni@jacklondonsquare.com>
Date: Friday, April 24, 2015 at 7:21 AM
To: Julie Braun <jbrown@portoakland.com>
Cc: Jennifer Koidal <jenni@jacklondonsquare.com>, Adrienne Klein <adrienne.klein@bcdca.gov>
Subject: Re: A few scott's questions

Julie: I'm not sure we formally documented cat but will dig through daily activity reports to identify length of time. It may take some time but we will get started right away.

Best,
Jenni

This message was sent from an iPhone device. Please excuse any typos or incorrect word corrections in this communication.

Jennifer Koidal, RPA
General Manager – Jack London Square
Corporate Occupier & Investment Services

T +1 (510) 645 9292 ext 223
F +1 (510) 645 9363
jenni@jacklondonsquare.com

Cushman & Wakefield of California, Inc. – License #00616335
70 Washington, Suite 207 Oakland, CA 94607

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On Apr 23, 2015, at 4:45 PM, "Julie Braun" <jbrown@portoakland.com> wrote:

Jenni,

The one detail I lack are the details of when and how long the Jaguar used to sit in front of the restaurant and I'm hoping you have some security logs indicating this.

From: Jennifer Koidal [<mailto:jenni@jacklondonsquare.com>]
Sent: Thursday, April 23, 2015 3:51 PM
To: Klein, Adrienne@BCDC; Julie Braun
Subject: RE: A few scott's questions

Adrienne/Julie:

Please let me know how we can assist in gathering this information.

Thank you,
Jenni

Jennifer Koidal, RPA General Manager
JACK LONDON SQUARE
472 Water Street | Oakland, CA 94607
T 510.645.9292 x 223 F 510.645.9363
[Web](#) | [Email](#) | [Like Us](#)
Cushman and Wakefield of CA, Inc. Lic #00616335

From: Klein, Adrienne@BCDC [<mailto:adrienne.klein@bcdc.ca.gov>]
Sent: Thursday, April 23, 2015 1:24 PM
To: Julie Braun; Jennifer Koidal
Subject: Re: A few scott's questions

Thanks. Appreciate your help. I may have questions about use, too, but I'm not quite there yet. Still reviewing the volumes of data.

From: Julie Braun <jbraun@portoakland.com>
Date: Thursday, April 23, 2015 at 12:06 PM
To: Adrienne Klein <adrienne.klein@bcdc.ca.gov>, Jennifer Koidal <jenni@jacklondonsquare.com>
Subject: RE: A few scott's questions

Hi Adrienne,

Give me a couple of days to review our files.

From: Klein, Adrienne@BCDC [<mailto:adrienne.klein@bcdc.ca.gov>]
Sent: Thursday, April 23, 2015 12:03 PM
To: Jennifer Koidal; Julie Braun
Subject: A few scott's questions

Hi jenny and julie,

I've been working hard on preparing the scott's violation report. it's a bear, to say the least.

I have some questions I would appreciate your input with:

Do you have a list of dates over the past decade when scott's has installed a car in the
broadway street plaza?

Do you know when the storage area and stage was constructed?

Do you know when the roof extension connecting the restaurant building and the pavilion
was constructed?

The pavilion was authorized in 1997. Following that date, do you know if Scott's ever
installed the public shore tables, chairs and signs and if so, when the stopped doing so and

if they did stop doing so was it intermittently or for an extended period. I think it's the latter but I don't know if I have evidence.

Your assistance answering these questions with supporting evidence (personal statement works) is appreciated.

Thanks,

Adrienne

Subject: Emails - Scott's Jaguar Promo

Date: Friday, April 24, 2015 at 4:49:40 PM Pacific Daylight Time

From: Julie Braun

To: Klein, Adrienne@BCDC

CC: Jennifer Koidal

As requested.

Julie Braun

From: Julie Braun
Sent: Monday, December 19, 2011 10:07 AM
To: Caroline Morris; 'Maryann Starn'
Cc: Dorin Tiutin
Subject: FW: Public Pavilion

→ start term only
2 Broadway Jaguar - opens up to other
Scott's Corp.
knows.
→ that's a foot zone
2. Pavilion -

Carrie and Maryann,

My response to Steve Fagalde went out last Friday evening, see below. In response to that email, Steve Hanson sent his reply. Are you available to discuss this today? If so, what time?

Scott's obtains our person
for their events and parties
events prevail.

From: Steven E. Hanson [mailto:hansonsteven@gmail.com]
Sent: Friday, December 16, 2011 7:00 PM
To: Julie Braun; 'Steve Fagalde'
Cc: Dorin Tiutin
Subject: RE: Public Pavilion

Julie, Dorin

I was going to (and will) follow-up with a more detailed account of our meeting with BCDC on Wednesday afternoon and will have that completed Monday. By way of summary, BCDC is interested in addressing issues with the Public Pavilion and how we plan to address the public access issues with the proposal for changing the way the Pavilion's wall system works. I think they are making a reasonable request and we will provide them this additional information. BCDC staff was not hostile at all - but we had a good conversation on this and how to structure the proposal to address BCDC's mandates. They appreciated the time we took to come in and discuss this.

We also discussed our perspective on other operational issues with Jack London Square, that they had not heard, and expressed interest in. We may wish to continue some of those conversations.

Those attending the meeting included Ellen Miramontes, Adrienne Klein (chief of enforcement) and Bob Batha (Chief of Permits) Steve and I.

With respect to the auto on display in front of Scott's, as part of Scott's summer promotion program, we also had that discussion with the BCDC staff. With that discussion, Ellen brought out a map of the proposed special events that were being proposed for next year by JLS Marketing. We had some general discussion about events including the Eat Real and the tight spaces created by the amount of vans, booths and vehicles.

With respect to the auto give away promotion - we explained that it was a marketing effort, and they listened. I suggested to BCDC that we would ask the Jack London Square Marketing department to include this temporary use in their application for special events. They had no problem with that approach. Because we had that discussion with BCDC both Steve and I asked you about including this promotional program in the BCDC application for events at JLS. We can discuss the specifics of this so that it can be included in the application.

Our concern at this point, is that we are seeing an exhibit for a marketing program with all these events shown on a map submitted to BCDC - but as far as I know, we had no indication that these requests were being made to BCDC or the line for which to do so. We also never had discussion, as far as I know, indicating what this process was nor were we invited to make comments on the application - which is a public document. If we knew about the application

we may have expressed our desire to have this promotional vehicle display or other propose promotional events/program included in the permit application. I am sure we can work together on this in the future.

I certainly think that with a request, the parked vehicle, as a special promotional event for a rent paying tenant, is a reasonable request and that BCDC should be able to review and comment on this.

Scott's could apply for this event permit on its own, but I am sure BCDC would rather see a unified approach to special even requests. The whole purpose for this display is to increase sales and public activity at the waterfront. Once I get the dates of the promotional event for next year I would like the MAG/marketing group to include the request to BCDC.

Thanks and have a nice weekend!

Steve Hanson

From: Julie Braun [mailto:JBraun@portoakland.com]

Sent: Friday, December 16, 2011 5:17 PM

To: Steve Fagalde

Cc: Steve Hanson; Dorin Tiutin

Subject: RE: Public Pavilion

Steve,

With regards to your concerns on the use of the Public Pavilion, please carefully review BCDC permit 19-85, Amendment No. Ten which governs the use of this area, and to which Scotts and the Port of Oakland are co-permitees. The permit explains the origins of the Public Pavilion, BCDC's desire for public access and enjoyment for the plaza area and waterfront, and policies and procedures for use by Scotts. If you have further questions and concerns after reviewing your permit, we would be happy to discuss them with you.

With regards to your statement "If it is true that Scott's has over used the Pavilion, AND the Port of Oakland was aware...", Steve as we all know both Cushman & Wakefield and the Port have repeatedly asked you to provide your Event Schedules for the Public Pavilion for the past year, with no success. Despite the potential for BCDC to revoke our permit based on your noncompliance, you have deliberately withheld this information from us. And with regards to your suggestion that we modify your rent structure, I must note that currently Scott's does not pay Minimum Rent for the use of the Public Pavilion.

With regards to the Jaguar, it was BCDC's Chief of Enforcement who brought this to the attention of Cushman & Wakefield while discussing enforcement of the Vehicular Access Plan for Jack London Square, which was adopted in 2004. Unfortunately, neither Cushman & Wakefield or their predecessor have been effective in communicating this information to Scott's however pursuant to BCDC's comment, the Jaguar is not allowed.

All of us (Port, Scotts, Cushman & Wakefield, Ellis Partners and Divco) are subject to numerous regulations and it is not our intent to make JLS tenant-unfriendly, however somebody must insure these regulations are upheld to preserve our existing rights and for the benefit of all.

Again, if after reviewing the permit you wish to discuss this further, we would be happy to arrange a meeting.

From: Steve Fagalde [mailto:stevef@scottscorp.com]

Sent: Thursday, December 15, 2011 12:44 PM

To: Julie Braun; Dorin Tiutin

Cc: Steve Fagalde

Subject: Public Pavilion

Julie/Dorin

It has come to my attention that the Ellis Group/Divco/Cushman Wakefield (common area management group) either individually or as a group have requested that the Public Pavilion behind Scott's be designated as Festival Space for the Public Festivals that they organize.

this is not a new thing - Eat Real has not used.

Although this space is considered a "Public Pavilion", and is open to the public, this causes Scott's great concern. This action now forces Scott's to compete with this group for use of the space. As you may recall, we lost a customer due to the fact that the management group used the Pavilion for their Pedal Fest Festival. As our landlord, and a beneficiary of incremental sales from Scott's, I am respectfully requesting that the Port of Oakland not support this request as there is already significant space in Jack London Square for Public Festival Space. This is not to say that Scott's disagrees with the space being used for the Public, I am simply saying there is plenty of space that can be used elsewhere within the square

Follow your permit requirements; public pav. use prevails;

As an example, Eat Real. If the Festival Continues, I expect that Scott's would be able to use the space in an "open to the Public format". This generated approximately \$16k in revenue for Scott's in 2011. If a food truck is allowed to park there, those revenues go to groups that are not tenants of the Port of Oakland.

In addition, it is my understanding that the Port of Oakland has benefitted from alleged "over use" of the pavilion. If it is true that Scott's has over used the Pavilion, AND the Port of Oakland was aware (as it was reported by the Port of Oakland to BCDC), then it would only be fair if the calculations used to calculate our annual Minimum Rent be recalculated using the appropriate and maximum allowed usage. With the management group "monitoring and reporting violations" directly to BCDC, I would expect that you would agree this would only be fair

It also has come to my attention that the management group reported Scott's to BCDC for having our promotional Jaguar placed in front of the restaurant this summer. Because this is a promotion that we have done for over 10 years, I was unaware of any issues with the car placement. I think it is a great tool to promote enjoyment to the public while they are down at the waterfront. Going forward, I am unaware of how to ensure this is not a problem for 2012. Can it be added to the management group's festival permit? Is there anything I can do now to ensure it is ok with everyone?

In addition, I think the Port of Oakland should communicate to the management group, in writing, that their actions should be more "tenant friendly". Although Scott's is not their tenant, their actions are only showing as ones that are intentionally try to hurt the success of our business. Although Scott's is not asking them to "look the other way", I would think that the bigger picture solution would be to "assist" by helping to ensure these are approved, instead of reporting to a regulatory agency violations. Maryann and/or Linda never once called me about the car! Again, I firmly believe the management group intentionally tries to hurt our business, instead of "helping" our business, which is what most management companies would do.

Stephen E. Fagalde
Phone: (510) 302-0999

